



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,984	02/18/2004	Raymond J. Baxter	11694/04304 (03-002)	3041
27483 7590 06/24/2009 CALFEE, HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114				
EXAMINER NGUYEN, HUNG D				
ART UNIT 3742		PAPER NUMBER		
NOTIFICATION DATE 06/24/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocket@calfee.com  
dcunin@calfee.com

### Office Action Summary

**Application No.**

10/780,984

**Applicant(s)**

BAXTER ET AL.

**Examiner**

HUNG NGUYEN

**Art Unit**

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 10/31/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7, 27, 36, 44 and 46-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7, 27, 36, 44 and 46-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 44 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Sprenger et al. (US Pat. 5,483,042).

3. Sprenger discloses a magnetic separator for spacing a plurality of workpieces 100 (Fig. 6) in face-to-face relationship, said separator comprising: an upper guide plate 502 (Fig. 6) and a lower guide plate 504 (Fig. 6) that at least partially define a passage for workpieces moving through said separator between an inlet end of said separator 510 (Fig. 5) and an outlet end of said separator 512 (Fig. 5); an upper pole piece 506 (Fig. 6) adjacent said upper guide plate 502 (Fig. 6) and a lower pole piece 508 (Fig. 6) adjacent said lower guide plate 504 (Fig. 6), said upper and lower pole pieces 506 and 508 (Fig. 6) providing a magnetic field, by magnet 606, 608, 624 and 626 (Fig. 6) operative to orient workpieces 100 (Fig. 6) in said passage 510 (Fig. 5); a frame on which said upper guide plate 502 (Fig. 6) is supported in a position extending longitudinally between said inlet end 510 (Fig. 5) of said separator and said outlet end 512 (Fig. 5) of said separator; and a mechanism releasably supporting said upper guide plate 502 (Fig. 6) on said frame whereby said upper guide plate 502 (Fig. 6) is slidable

longitudinally along said frame to enable removal of said upper guide plate from said separator (Col. 8, Lines 23-32).

Sprenger also discloses an upper plate and lower plate may take the form of a tube as shown 120 (Fig. 1) that acting as a funnel to align the loads in the inlet passage 510 (Fig. 5) (Col. 8, Lines 20-23).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-7, 27, 36 and 46-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sprenger et al. (US Pat. 5,483,042) in view of Vejchoda (US Pat. 5,669,156).

Sprenger discloses a magnetic separator for spacing a plurality of workpieces 100 (Fig. 6) in face to face, the separator comprising: an upper guide plate 502 (Fig. 6) and a lower guide plate 504 (Fig. 6) that define a passage 510 (Fig. 5) for workpieces moving through the separator; an upper pole piece 506 (Fig. 6) adjacent said upper guide plate 502 (Fig. 6) and a lower pole piece 508 (Fig. 6) adjacent said lower guide plate 504 (Fig. 6), said upper and lower pole pieces 506 and 504 (Fig. 6) providing a magnetic field, by magnet 606, 608, 624 and 626 (Fig. 6), operative to orient workpieces 100 (Fig. 6) in said passage 510 (Fig. 5); and an adjuster for adjusting the vertical

position 514 and 516 (Fig. 6) of said upper guide plate 502 (Fig. 6) relative to said lower guide plate 504 (Fig. 6) (Col. 6, Lines 31-35). Sprenger also discloses an upper plate and lower plate may take the form of a tube as shown 120 (Fig. 1) that acting as a funnel to align the loads in the inlet passage 510 (Fig. 5) (Col. 8, Lines 20-23).

Sprenger et al. fails to show an adjustment mechanism comprising a member that is rotatable about an axis, said rotatable member having a first portion fixed for vertical movement with said upper guide plate and a second portion that is threadedly received in a frame portion of said separator, rotation of said rotatable member about said axis causing axial movement of said rotatable member and thereby of said upper guide plate relative to said frame portion.

Vejchoda shows the can end curing system with magnetic fanning and belt conveying wherein an adjustment mechanism 130 (Fig. below) comprising a member 136 (Fig. below) that is rotatable about an axis, said rotatable member 136 (Fig. below) having a first portion FP (Fig. below) fixed for vertical movement with said upper guide plate 138 (Fig. below) and a second portion SP (Fig. below) that is threadedly received in a frame portion 134 (Fig. below) of said separator, rotation of said rotatable member 136 (Fig. below) about said axis causing axial movement of said rotatable member 136 (Fig. below) and thereby of said upper guide plate 138 (Fig. below) relative to said frame portion 134 (Fig. below).

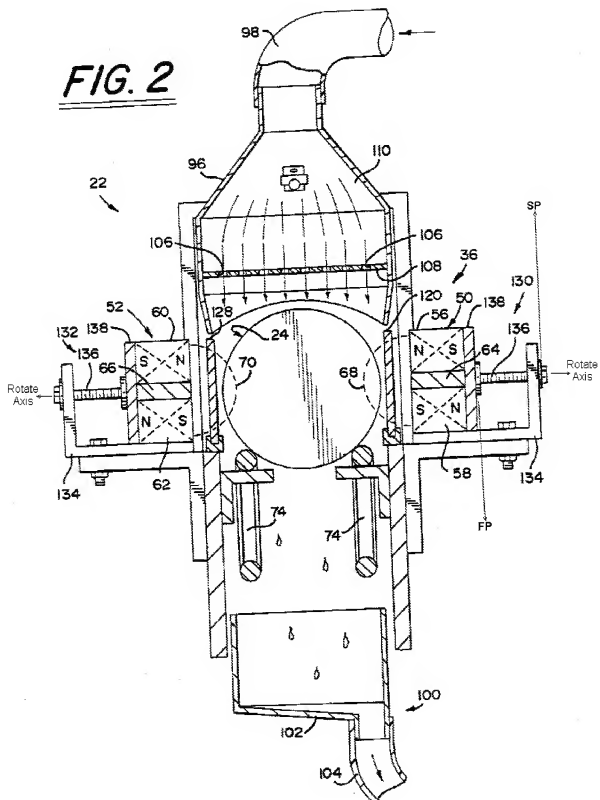
It would have been obvious to an ordinary skill in the art at the time of invention to modify Sprenger to use a funnel shape inlet opening of the workpiece passage so that the workpieces are properly aligned to be moved in a predetermined order; and the

adjustment mechanism to control the magnetic fields for further processing to achieve desired results, in view of the teaching of Vejchoda.

6. Claims 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sprenger et al. (US Pub. 5,483,042) in view of Hill (US Pat. 2,475,895).

7. Sprenger and Vejchoda show a magnetic separator having every feature except for the mechanism releasable by the L-shaped slot and the pin configured to be slideably received in said L-shape slot. Hill shows a winding machine wherein the guideplate 52 (fig. 4) can be release by the pin 52a (Fig. 4) at the slot 33a (Fig. 4). It would have been obvious to an ordinary skill in the art at the time of invention to modify Sprenger to use the pin configured to be slideably received in slot for mechanism releasably for supporting the guide plate. This clearly shows that it would have been obvious to an ordinary skill artisan to modify the slot in any shape in order to suit to the user application.

**FIG. 2**



***Response to Amendment***

8. Applicant's arguments with respect to claims 1-10, 19, 27, 36 and 44 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **HUNG NGUYEN** whose telephone number is (571)270-7828. The examiner can normally be reached on Monday-Friday, 8:30AM-6PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUNG NGUYEN/  
Examiner, Art Unit 3742  
6/18/2009

/Quang T Van/  
Primary Examiner, Art Unit 3742